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IN THE

Supreme Court of the United States

OCTOBER TERM, 1983

LINDA SIDOTI PALMORE,
Petitioner,

v.

ANTHONY J. SIDOTI,
Respondent.

On Writ of Certiorari to the District Court of Appeal of the State of Florida for the Second District

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BRIEF *AMICI CURIAE* OF THE WOMEN'S LEGAL DEFENSE FUND AND THE NOW LEGAL DEFENSE AND EDUCATION FUND IN SUPPORT OF PETITIONER

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BRIEF *AMICI CURIAE* OF THE WOMEN'S LEGAL DEFENSE FUND AND THE NOW LEGAL DEFENSE AND EDUCATION FUND IN SUPPORT OF PETITIONER

INTEREST OF *AMICI CURIAE*

Amicus Women's Legal Defense Fund ("WLDF") is a private, non-profit organization, founded in 1971, that is dedicated to achieving equal rights for women. WLDF, with approximately 1,000 members, represents women and men in challenges to barriers to sexual equality and provides counselling and conducts public education programs on such matters as employment discrimination, education, and family law.

WLDF, through its Child Custody Project, engages in a number of activities relating to domestic relations and child custody issues in an effort to promote equitable and unbiased custody determinations. In this connection, WLDF prepares materials for public education, provides technical assistance to attorneys, compiles data, analyzes legislation, and serves as counsel of record or as *amicus curiae* in cases on appeal.

Amicus NOW Legal Defense and Education Fund ("NOW LDEF") is a non-profit civil rights organization founded in 1971 to perform a wide range of legal and educational services in support of women's efforts to eliminate sex-based discrimination and to secure for women full and equal rights under the law. NOW LDEF's parent organization, the National Organization for Women, is a nationwide membership organization of over 170,000 women and men in more than 750 chapters throughout the country.

NOW LDEF engages in various activities relating to family law issues. In 1979, NOW LDEF sponsored the National Assembly on the Future of the Family, a convocation that brought together national experts on family law issues and resulted in the publication of a comprehensive report and recommendations. In addition, NOW LDEF has participated as *amicus curiae* before this Court and various state courts in cases involving child custody, marital property, and other family law issues.

Amici's interest in this case arises from their commitment to ensuring adherence to the constitutional requirement of equal protection under the law and their dedication to serving the best interests of children by providing guidance to courts in custody disputes. In this case, the Florida courts reached a judgment that comports with neither the Constitution nor the best interests of the child.[1]

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[1] The parties' written consents to the filing of this brief are being filed with the Clerk pursuant to Rule 36 of the Rules of this Court.

INTRODUCTION AND SUMMARY OF ARGUMENT

Principally at issue in this case is the fate of one little girl, Melanie Lynn Sidoti. But also involved are issues of more general application concerning the relevance in custody disputes of judicial predictions about community attitudes towards families with members of different races and the meaning of the phrase "best interests of the child."

Melanie's parents were divorced on May 29, 1980, when Melanie was three. Custody was awarded to the mother, and Melanie, her mother, and Melanie's half-brother lived together as a stable family unit. In September 1981, Melanie's father petitioned for custody. The trial court ruled in March 1982, by which time both of Melanie's parents had remarried. The man Melanie's mother married is Black.

The trial court found both natural parents to be devoted and fit.[2] It found "no issue" as to the "respectibility of the new spouse of either parent."[3] But the court

> fe[lt] that despite the strides that have been made in bettering relations between the races in this country, it is inevitable that Melanie will, if allowed to remain in her present situation and attains school age and thus more vulnerable to peer pressures, suffer from the social stigmatization that is sure to come."[4]

Little more said, the court found "substantial competent evidence of changed circumstances and that the best interest of the child will be served by awarding custody of the minor child to the father, . . ."[5]

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[2] *See* Order of Modification of Final Judgment, March 1, 1982, ¶ 1 (Petition for a Writ of Certiorari, Appendix A).

[3] *Id.*

[4] *Id.* ¶ 5.

[5] *Id.* ¶ 6.

The distinction the court drew between Melanie's parents based on the race of their spouses violated the constitutional guarantee of equal protection under the law. The court's prediction that Melanie would someday be stigmatized by the color of her stepfather's skin does not satisfy the heavy burden of justifying the state's use of the racial classification. Nor does such prediction satisfy the normally heavy burden of justifying a change in an award of custody or the court's obligation to base any determination to change custody upon substantial and competent evidence relating to the specific needs and interests of the particular child before it, including, at a minimum, the child's special relationship with her primary caretaker (in this case, her mother) and the child's need for continuity, security, and stability.

ARGUMENT

I. THE FLORIDA TRIAL COURT EMPLOYED A RACIAL CLASSIFICATION IN VIOLATION OF THE EQUAL PROTECTION OF THE LAW.

The constitutional principles governing this case are well settled. First, racial classifications are constitutionally suspect and must be strictly scrutinized.[6] Second, racial classifications may be upheld only if shown to advance a "compelling" or "overriding" governmental interest,[7] and if the particular use of race is "necessary" to the attainment of the government's objective.[8] Third, racial classifications will be considered "necessary" to

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[6] *E.g.*, *McLaughlin v. Florida*, 379 U.S. 184, 191-92 (1964); *Bolling v. Sharpe*, 347 U.S. 497, 499 (1954); *Korematsu v. United States*, 323 U.S. 214, 216 (1944).

[7] *E.g.*, *Dunn v. Blumstein*, 405 U.S. 330, 342 (1972); *Graham v. Richardson*, 403 U.S. 365, 375 (1971); *Loving v. Virginia*, 388 U.S. 1, 11 (1967).

[8] *E.g.*, *In re Griffiths*, 413 U.S. 717, 722 (1973); *Dunn v. Blumstein*, 405 U.S. at 342; *McLaughlin v. Florida*, 379 U.S. at 196.

serve a compelling governmental interest only when "precisely tailored" to achieve that legitimate purpose.[9]

Applying these principles in this case compels reversal. First, in distinguishing between Melanie's parents (and favoring her father), the court employed a suspect classification based on the race of their spouses. Second, assuming that the state has a compelling interest in providing for the child's best welfare, the court's reliance on the racial characteristics of the child's home to justify changing custody does not satisfy the requirement that the particular use of the racial classification in fact advance that compelling state interest or be "necessary" to its accomplishment. And, third, the racial classification made here, based as it was on the court's generalized assumptions and unsupported predictions about community attitudes, was not precisely enough tailored—indeed, not tailored at all—to the best welfare of the only person about whom the state has any interest, Melanie Lynn Sidoti.[10]

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[9] *E.g., Plyler v. Doe*, 457 U.S. 202, 217 (1982); *Zablocki v. Redhail*, 434 U.S. 374, 388 (1978). *See Personnel Administrator of Massachusetts v. Feeney*, 442 U.S. 256, 272 (1979) (racial classifications, "regardless of purported motivation," are "presumptively invalid and can be upheld only upon an extraordinary justification").

[10] The conclusion the lower court reached in this case, that a home of racially mixed adults is a less desirable environment in which to raise a child and that a child raised in such a home will inevitably be stigmatized, would logically apply in *all* custody cases involving interracial remarriages, regardless of the needs of the particular child or the attributes of the particular parents before the court. But courts may not "reason by presumption in child custody cases." *In re Custody of Temos*, 304 Pa. Super. 82, 450 A.2d 111, 122 (1982). Indeed, "reliance on a presumption that interracial environments are inherently detrimental to a child's interests may often result in granting custody to the less desirable parent, . . . undercutting the state interest in promoting the welfare of the child." *Developments in the Law: The Constitution and the Family*, 93 Harv. L. Rev. 1156, 1342 (1980). Moreover, available

The court below decided to uproot Melanie because of its "feel[ing]" that, some day, she will be stigmatized by her mother's choice of mate. But "[c]ommunity prejudice, even when shown to exist, cannot be permitted to control the makeup of families." *In re Marriage of Kramer*, 297 N.W.2d 359, 361 (Iowa 1980). *A fortiori*, the makeup of families cannot be controlled by *predictions* of such prejudice, for "[p]ossible developments in the future" resulting from interracial marriage "are matters wholly of speculation and conjecture . . . ." *Potter v. Potter*, 372 Mich. 637, 127 N.W.2d 320, 326 (1964).[11] As the Iowa court quoted above said, parent-child relationships may not be dictated by "unsubstantiated judicial predictions concerning the effects of racial prejudice in the community." *In re Marriage of Kramer*, 297 N.W.2d at 361.[12]

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evidence does not indicate that children are adversely affected by interracial environments. *See, e.g.*, Grossman, *A Child of a Different Color: Race as a Factor in Adoption and Custody Proceedings*, 17 Buffalo L. Rev. 303, 326 (1968); Comment, *Race as a Consideration in Adoption and Custody Proceedings*, 1969 U. Ill. L.F. 256, 263 (1969).

[11] *See Developments in the Law: The Constitution and the Family*, 93 Harv. L. Rev. at 1341 ("generalized assertions based upon vague fears or even upon speculative probabilities about the consequences of racial integration do not meet the heavy burden of justification placed on the state when it employs a racial classification"), *citing United States v. Wyandotte County*, 480 F.2d 969, 971 (10th Cir.) (per curiam), *cert. denied*, 414 U.S. 1068 (1973) (vague fear or speculation that prison desegregation may result in violence would not justify continued segregation).

[12] *Accord, In re H.*, 66 Ohio App. 2d 178, 305 N.E.2d 815, 819 (1973) ("[T]he American 'melting pot' will continue to bring about the marital union of persons of different racial, religious and cultural backgrounds. The law wisely does not and should not interfere with this process."). *Cf. Moore v. City of E. Cleveland*, 431 U.S. 494, 506 (1977) ("[T]he Constitution prevents [the state] from standardizing its children—and its adults—by forcing all to live in certain narrowly defined family patterns").

What is important in deciding the fate of a child caught in a custody tug-of-war is not skin color or the prejudices (real or imagined) of others, but rather the nature, strength, and quality of the relationship between the child and the adult upon whom the child has come primarily to rely for continuous care and affection,[13] as well as the ability and willingness of that adult to love, guide, teach, and respect the child and to model and reinforce positive character traits, including freedom from prejudice. Although racial prejudice may still be an unfortunate fact of life, "if children are raised in a happy and stable home, they will be able to cope with prejudice and hopefully learn that people are unique individuals who should be judged as such." *Commonwealth ex rel. Lucas v. Kreischer*, 450 Pa. 352, 299 A.2d 243, 246 (1973).[14]

Indeed, to distinguish between people on the basis of their color and to allow racial prejudice to play a role in the court's decisionmaking tends invariably to give

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[13] *See* pp. 10-14, *infra*.

[14] *Accord, In re Custody of Temos*, 304 Pa. Super. 82, 450 A.2d at 120 ("A court may not assume that because children will encounter prejudice in one parent's custody, their best interests will be served by giving them to the other parent. If the children are taunted and hurt because they live with a black man, with love and help they may surmount their hurt and grow up strong and decent—the sort of children any parent would be proud of").

Many other courts in custody disputes have similarly disregarded the complexion of a parent's spouse. *See, e.g., In re Marriage of Kramer*, 297 N.W.2d at 361; *Edel v. Edel*, 97 Mich. App. 266, 293 N.W.2d 792 (1980); *Boone v. Boone*, 90 N.M. 466, 565 P.2d 337 (1977); *Commonwealth ex rel. Myers v. Myers*, 468 Pa. 134, 360 A.2d 587, 591-92 (1976); *Tucker v. Tucker*, 14 Wash. App. 454, 542 P.2d 789 (1975); *In re H.*, 66 Ohio App. 2d 178, 305 N.E.2d at 818; *Langin v. Langin*, 2 Ill. App. 3d 544, 276 N.E.2d 822 (1971); *Stingley v. Wesch*, 77 Ill. App. 2d 472, 222 N.E.2d 505 (1966); *People ex rel. Portnoy v. Strasser*, 303 N.Y. 539, 104 N.E.2d 895 (1952).

credence to, to legitimize, and perhaps even to perpetuate, the very kind of discrimination the law seeks to eradicate.[15] There is no reason for a court to "*yield* to prejudice" simply "because it cannot *prevent* prejudice." *In re Custody of Temos*, 304 Pa. Super. 82, 450 A.2d 111, 120 (1982) (emphasis in original).[16]

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[15] Courts in other contexts have repeatedly refused to legitimize offensive classifications by yielding to public prejudice. *See, e.g., Diaz v. Pan American World Airways, Inc.*, 442 F.2d 385, 389 (5th Cir.), *cert. denied*, 404 U.S. 950 (1971) (while "the public's expectation of finding one sex in a particular role may cause some initial difficulty, it would be totally anomalous if we were to allow the preferences and prejudices of the customers to determine whether the sex discrimination was valid. Indeed, it was, to a large extent, these very prejudices the Act [Title VII] was meant to overcome"); *see also, e.g., Gerdom v. Continental Airlines, Inc.*, 692 F.2d 602, 609 (9th Cir. 1982) (en banc), *cert. denied*, 103 S. Ct. 1534 (1983) ("consumer preference" cannot justify a discriminatory practice); *Fernandez v. Wynn Oil Co.*, 653 F.2d 1273, 1276-77 (9th Cir. 1981) ("stereotyped customer preference cannot justify a discriminatory practice"); *Rucker v. Higher Educational Aids Board*, 669 F.2d 1179, 1181 (7th Cir. 1982) ("It is clearly forbidden by Title VII to refuse on racial grounds to hire someone because your customers or clients do not like his race").

[16] As one court, considering a case very much like the instant case, stated:

> The Fourteenth Amendment requires that a Court refuse to become a party to any discrimination based on race. Thus any consideration of the stepfather's race, or of the race of the mother's associations, or of the neighborhood racial mix, would result in a Court making its determination on the basis of factors which the Fourteenth Amendment prohibits from consideration.
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> * * *
>
> While the Constitution cannot prevent bigotry, it can prevent an individual from involving the State, through its Courts in such bigotry.

DeLander v. DeLander, excerpted in 37 U.S.L.W. 2139 (Super. Ct. Calif. 1968).

II. THE FLORIDA TRIAL COURT FAILED TO MAKE A SUFFICIENTLY THOROUGH AND PARTICULARIZED DETERMINATION OF THE CHILD'S BEST INTERESTS.

In Florida, a parent seeking to change a custody order carries an "extraordinary burden."[17] In order to support a change, there must be "*competent, substantial* evidence that (1) there has been a substantial or material change in the condition of the parties and (2) the best welfare of the child will be promoted by the change in custody." *Stricklin v. Stricklin*, 383 So. 2d 1183, 1184 (Fla. Dist. Ct. App. 1980) (emphasis added).

In this case, the pivotal reason for the change in custody was the trial court's "feel[ing]" that Melanie would someday be stigmatized by the race of her mother's husband.[18] Even if a parent's remarriage to a person of a different race could ever be considered a "substantial and material change" and even if it were constitutionally permissible to consider race in a custody dispute, there is no evidence—let alone "competent, substantial evidence"—that Melanie had been or would be harmed or prejudiced in any way by the color of her stepfather's skin.

Rather than focusing on the racial element, the lower court here should have made a particularized determination as to what would best serve the interests of Melanie Lynn Sidoti based on factors bearing directly and uniquely on her adjustment and development:

> Surely, it is not asking too much to demand that a court, in making a determination as to the best in-

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[17] *Elkins v. Vanden Bosch*, 433 So. 2d 1251, 1252 (Fla. Dist. Ct. App. 1983); *see also, e.g., McGregor v. McGregor*, 418 So. 2d 1073, 1074 (Fla. Dist. Ct. App. 1982).

[18] It is clear from the trial court's opinion that the racial element was pivotal to the modification order. The court made reference to few other factors, and those it referenced were basically in equipoise as between Melanie's parents. *See generally* Order of Modification of Final Judgment, March 1, 1982 (Petition for a Writ of Certiorari, Appendix A).

> terest of a child, make the determination upon *specific evidence relating to that child alone.* As one court has aptly noted, magic formulas have no place in decisions designed to salvage human values.

Bazemore v. Davis, 394 A.2d 1377, 1383 (D.C. 1978) (en banc) (emphasis added).

Chief among the factors the court failed to consider is Melanie's need for stability and continuity of affectionate, nurturing care. From her birth in 1977, through her parent's separation in 1979 and divorce in 1980, and until the trial court's order in 1982, Melanie lived with her mother, who was primarily responsible for her care. No apparent importance was given to the special attachment that inevitably bound Melanie to her "primary caretaker" or "psychological parent" (in this case, her mother), an attachment resulting from "day-to-day interaction, companionship, and shared experiences" and her mother's daily attention to Melanie's "needs for physical care, nourishment, comfort, affection, and stimulation." [19]

Failure of the court to consider Melanie's relationship to her primary caretaker invalidates any claim that the trial court took into account the best interests of the child, which in Florida, as elsewhere, is the touchstone of any custody change and, in turn, the "compelling" state interest that the court's determination here allegedly ad-

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[19] J. Goldstein, A. Freud, A. Solnit, *Beyond the Best Interests of the Child* at 19, 17 (1979). *See also, e.g.*, Leonard and Provence, *The Development of Parent-Child Relationships and the Psychological Parent*, 53 Conn. B.J. 320, 326 (1979) (psychological parent is adult who fulfills the child's "needs for nourishment, warmth, physical care, protection, comfort, and affection"); Polikoff, *Gender and Child-Custody Determinations: Exploding the Myths* (1982), in I. Diamond (ed.), *Families, Politics and Public Policy* 187 (1983); Polikoff, *Why Are Mothers Losing: A Brief Analysis of Criteria Used in Child Custody Determinations*, 7 Women's R. Law Rep. 235, 237, 243 (1982).

vanced.[20] For no court charged with deciding a child's best interests may be unmindful of the consequences of severing the tie that binds a child to his primary caretaker and disrupting the continuity and stability on which the child has come to depend.[21]

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[20] *See* Bodenheimer, *The Uniform Child Custody Jurisdiction Act*, 3 Fam. L.Q. 304, 304-05 (1969) ("first and foremost" among the needs of children are their needs "for stability of home environment and constancy and continuity of personal attachments formed"); Mnookin, *Child Custody Adjudication: Judicial Functions in the Face of Indeterminacy*, 39 Law & Contemp. Prob. 226, 288 (1975) ("[T]he court should prefer a psychological parent (*i.e.*, an adult who has a psychological relationship with the child from the *child's* perspective) over any claimant (including a natural parent) who, from the child's perspective, is not a psychological parent. To award custody to a person who is a 'stranger' to the child would unnecessarily risk harming the child where the other claimant has, on a continuing, day-to-day basis, fulfilled 'the child's psychological needs for a parent as well as his physical needs.' ").

[21] *See, e.g.*, J. Goldstein, A. Freud, A. Solnit, *Beyond the Best Interests of the Child* at 17-20, 31-34, 37-39; Mnookin, *Child-Custody Adjudication: Judicial Functions in the Face of Indeterminacy*, 39 Law & Contemp. Prob. at 265; J. Bowlby, *Separation* (1973); J. Bowlby (ed.), *Child Care and the Growth of Love* (1965); A. Freud & D. Burlingham, *Infants Without Families: The Case For and Against Residential Nurseries* (1944). Continuity of relationships is particularly critical for young children. According to J. Goldstein, *et al.*, a change of the caretaking person for infants and young children produces "separation distress and anxiety" and causes "setbacks in the quality of their next attachments, which will be less trustful." *Beyond the Best Interests of the Child* at 33. For children under five, disruptions of continuity affect "those achievements which are rooted and develop in the intimate interchange with a stable parent figure, who is in the process of becoming the psychological parent . . . [such as] cleanliness and speech." *Id.*

The time spent by a child and his or her primary caretaker not only creates a bond between them whose severance may be harmful to the child, but also it provides a sound basis for a judgment about the child's future welfare; if in the past the primary caretaker has exhibited good parenting skills, the court may "predict that those qualities will continue." *Commonwealth ex rel. Jordan v. Jordan*, 302 Pa. Super. 421, 448 A.2d 1113, 1115 (1982).

The importance of maintaining the child's bond with the parent who has principally provided for the child's daily care and nurturance has been emphasized in a number of recent decisions. In *Garska v. McCoy*, 278 S.E.2d 357, 361 (W. Va. 1981), for example, the court held that, assuming fitness, the "best interests of the children [of tender age] are best served in awarding them to the primary caretaker parent, . . ."[22] Similarly, in *Commonwealth ex rel. Jordan v. Jordan*, 302 Pa. Super. 421, 448 A.2d 1113, 1115 (1982), the court reversed an order transferring custody of a five-year old child who, like Melanie, had lived his entire life with his mother, holding that

> where two natural parents are both fit, and the child is of tender years, the trial court must give positive consideration to the parent who has been the primary caretaker. Not to do so ignores the benefits likely to flow to the child from maintaining day to day contact with the parent on whom the child has depended for satisfying his basic physical and psychological needs.[24]

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[22] The court identified the following functions as among those ordinarily performed by a child's primary caretaker parent:

> (1) preparing and planning of meals; (2) bathing, grooming and dressing; (3) purchasing, cleaning and care of clothes; (4) medical care, including nursing and trips to physicians; (5) arranging for social interaction among peers after school, i.e., transporting to friends' houses or, for example, to girl or boy scout meetings; (6) arranging alternative care, i.e., babysitting, day care, etc.; (7) putting child to bed at night, attending to child in middle of the night, waking child in the morning; (8) disciplining, i.e., teaching general manners and toilet training; (9) educating, i.e., religious, cultural, social, etc.; and (10) teaching elementary skills, i.e., reading, writing and arithmetic.

278 S.E.2d at 363.

[23] The court reached this conclusion based on its understanding that "the continued presence of a fit parent who through daily affection, guidance, companionship, and discipline fulfills the child's psychological and physical needs is crucial to the child's emotional

As yet another court stated, "[T]he rearing of a child requires greater stability than a roller-coaster treatment of custody." *Dintruff v. McGreevy*, 34 N.Y.2d 887, 316 N.E.2d 716, 359 N.Y.S.2d 281, 281 (1974).[24]

The importance to a child of continuity and stability and the tie between a child and his or her primary caretaker has been recognized in Florida as well. Thus, in *Culpepper v. Culpepper*, 408 So. 2d 782, 785 (1982), the court refused to remove a child from the care of his "primary custodial parent" where both parties were fit, custody had been awarded to the mother when the child was very young, and there was no evidence that the child had been adversely affected in any way by the mother's conduct. *See also Agudo v. Agudo*, 411 So. 2d 249, 252 (Fla. Dist. Ct. App. 1982) (reversing order changing residence of young

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well being," and that the "removal of a young child from an established home with one parent has long been recognized as a factor which bears upon his emotional well-being" and "can seriously disrupt a child's life." 448 A.2d at 1115.

[24] *See also, e.g., Nale v. Nale*, 409 So. 2d 1299, 1302 (La. Ct. App. 1982) (court must consider that it "would be harmful" to alter relationship between child and parent who provided child with "'continuous care and affection'"); *Pamela J.K. v. Roger D.J.*, 277 Pa. Super. 579, 419 A.2d 1301, 1307 (1980) (a court should "consider the advantages and risks of a change in custody. This court has noted the importance to a child's development of a stable relationship with an established parental figure and a known physical environment"); *Rice v. Rice*, 415 A.2d 1378, 1383 (D.C. 1980) (courts are aware of the danger that children will be disturbed by changes in custody and "'are generally reluctant to modify existing custody arrangements'"); *M.P. v. S.P.*, 169 N.J. Super. 425, 404 A.2d 1256, 1259 (Super. Ct. 1979) ("In assessing a claim of changed circumstances deference is given to the length and stability of the existing custody relationship" because of the "potential for damage which resides in removing a child from its psychological parent"); *In re Marriage of Derby*, 31 Or. App. 803, 571 P.2d 562, 567, *mod. on other grounds*, 31 Or. App. 1333, 572 P.2d 1080 (1977) (en banc) ("the close and successful emotional relationship between the primary parent and the children coupled with the age of the children dictate the continuance of that relationship").

child, noting deleterious effect change may have on child in the bonding stage of development).[25]

Culpepper and the other decisions cited above give meaning to the "best interests of the child" test in terms that are relevant to the child before the court. The decision of the trial court in the instant case utterly fails in this regard.

CONCLUSION

For the foregoing reasons, the decision of the Second District Court of Appeal should be reversed.

Respectfully submitted,

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[25] Although the Florida trial court's failure to consider Melanie's need for security and continuity was its most significant error of omission, there are other considerations that also were ignored. For example, because "divorces and custody disputes are traumatic enough without needlessly severing sibling relationships" (*Craig v. McBride*, 639 P.2d 303, 306 (Alaska 1982)), courts ordinarily "will not disrupt sibling relationships unless there is some overwhelming need to do so" (*Pawelski v. Buchholtz*, 91 A.D.2d 1200, 459 N.Y.S.2d 190, 191 (1983)). (The "desirability of keeping the children of the family together so that they may enjoy the normal conditions of childhood of growing up together as brothers and sisters" applies equally in cases, like this case, involving half-siblings as well as siblings of the same two parents. *E.g., Pawelski v. Buchholtz*, 459 N.Y.S.2d at 191; *Craig v. McBride*, 639 P.2d at 306 n.9; *Albright v. Commonwealth ex rel. Fetters*, 491 Pa. 320, 421 A.2d 157, 161 (1980).) No "overwhelming need" to separate Melanie from the half-brother with whom she had always lived—indeed, no need at all—was shown here.